

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: KANEKAR ET AL.

US Patent 7,689,485, issued March 30, 2010

Application No. 10/630,178, filed July 29, 2003

Confirmation No. 7658

Title: Generating Accounting Data Based On Access Control List Entries

PETITION TO INVOKE SUPERVISOR AUTHORITY UNDER 37 CFR § 1.181

Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

Applicants respectfully request the Office invoke its supervisory authority to correct an obvious, and substantial error (apparently mathematical of 434 days), in the Decision of Request of Patent Term Adjustment Determined by the Office of Petitions mailed August 16, 2010 ("PTA Decision"). Applicants further request the Office reconsider the entire patent term adjustment, as the Office did not include a 30 day PTA due to the delay in issuing of the patent. Applicants respectfully submit that the PTA should be 1724 days, not the 1260 days determined by the Office. Applicants note that a Petition to Suspend Rules under 37 CFR § 1.183 is being filed herewith as this Petition is being filed after the one month mailing date of the PTA Decision.

In reviewing the initial 1835 day PTA determined by the Office and listed on the face of the issued patent, Applicants believed this was too much, and Applicants filed a Petition to Correct PTA on May 14, 2010, to request the proper PTA (which is believed to be the lesser value of 1724 days) as Applicants believe in ensuring the correctness of Patents, even though it meant a lesser granted PTA.

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The Office rendered the PTA decision resulting in a determination of 1260 days. Taking simply the dates determined by the Office for various delays listed in footnote 1, a substantial cumulative mathematical error appears to have been made, as Applicants' calculation based on the dates specified in Footnote 1 of the PTA Decision are as follows:

A Delays –
- September 29, 2004 to November 5, 2007 (1133 days)
- July 5, 2008 to October 24, 2008 (112 days)
Thus, A delay equals $1133+112$ equals 1245 days

B Delays –
- July 30, 2006 to June 18, 2009 (1055 days)

Overlapping Delay:
- July 29, 2006 to November 5, 2007 (465 days)
- July 5, 2008 to October 24, 2008 (112 days)
Thus, overlapping delay is $465+112$ equals 577 days

Thus, the patent term adjust for A + B should be based on footnote 1:
 $1245+1055-577$, which equals 1723.

Applicant delay was 29 days, so Applicants believe the correct math in the PTA decision based on the dates specified in footnote 1 should have been 1694 days (1723-29), not the 1260 days mathematically determined by the Office using these same dates.

Applicants submit that the Office further failed to include an A Delay of 30 days from the delay in the issuance of the patent, so the delay should be $1694+30$ equals 1724.

Therefore, Applicants request the Office grant Applicants a total of 1724 days Patent Term Adjustment, and issue an appropriate Certificate of Correction and/or take other steps to clarify the record that Applicants are entitled to a PTA of 1724 days.

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Furthermore, the Office is aware of its mistake in its PTA Determination. Applicants note that the Office has authority to *sua sponte* correct the PTA of this issued patent, as provided for at least in 37 CFR §§ 1.183 and 1.322.

In submitting this Petition, Applicant is paying the § 1.17(f) petition fee of \$400. Should this petition fee not be required, Applicants respectfully request a refund of the petition fee. Further, the Commissioner to charge any fees due with this communication, or credit any amount being refunded, to Deposit Account No. 501430.

Respectfully submitted,
The Law Office of Kirk D. Williams

Date: October 8, 2010

By



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